

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

EUGENE JOHNSON §
v. § CIVIL ACTION NO. 6:05cv306
DIRECTOR, TDCJ-CID §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Petitioner Eugene Johnson, proceeding *pro se*, filed this application for the writ of habeas corpus under 28 U.S.C. §2254 complaining of the legality of his conviction. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Johnson was convicted of aggravated robbery on April 27, 1999, receiving a sentence of 20 years in prison. He did not take a direct appeal, but sought state habeas corpus relief on June 1, 2004, which petition was denied on December 22, 2004. Johnson filed his federal habeas corpus petition on August 1, 2005.

On August 29, 2005, the Magistrate Judge issued a Report recommending that the petition be denied because of the expiration of the statute of limitations, set out in 28 U.S.C. §2244(d). Johnson filed objections to the Report on September 6, 2005, which objections simply asked that his case be ruled upon by a district judge.

The Court has conducted a careful *de novo* review of the pleadings in this cause, including the original petition, the Report of the Magistrate Judge, the Petitioner's objections thereto, and all pleadings, documents, and records in the case. Upon such *de novo* review, the Court has concluded

that the Report of the Magistrate Judge is correct and that the Petitioner's objections are without merit. It is accordingly

ORDERED that the Petitioner's objections are overruled and that the Report of the Magistrate Judge is ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled application for the writ of habeas corpus be and hereby is DISMISSED with prejudice. It is further

ORDERED that any and all motions which may be pending in this action are hereby DENIED.

SIGNED this 4th day of October, 2005.


MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE